

Burgos, Alexander N

Subject: FW: 10A NCAC 41A .0107 Request for Changes - September 2022 RRC
Attachments: 10A NCAC 41A .0107-Revised.docx

From: Niehaus, Virginia <virginia.niehaus@dhhs.nc.gov>
Sent: Friday, September 9, 2022 2:19 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: RE: 10A NCAC 41A .0107 Request for Changes - September 2022 RRC

Hi Brian,

Thanks for this clarification. This change in language does not change the meaning of the rule. I've attached the updated revised rule. Please let me know if you have any further questions on this rule.

Regards,
Virginia

Virginia R. Niehaus, JD, MPH
Director of Regulatory and Legal Affairs
Division of Public Health
[NC Department of Health and Human Services](#)
Pronouns: she/her/hers

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From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Friday, September 9, 2022 2:05 PM
To: Niehaus, Virginia <virginia.niehaus@dhhs.nc.gov>
Subject: RE: 10A NCAC 41A .0107 Request for Changes - September 2022 RRC

Hi Virginia,

To be clear, there's nothing intrinsically wrong with "made in alignment with" but it's just unusual and made me wonder if there was some intent for choosing that particular word.

I think if you're OK with "made in compliance with" and it doesn't change the meaning of the rule, I am OK as well.

Thanks,
Brian

Brian Liebman
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From: Niehaus, Virginia <virginia.niehaus@dhhs.nc.gov>
Sent: Friday, September 9, 2022 2:03 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Vail, Nathan T <Nathan.Vail@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10A NCAC 41A .0107 Request for Changes - September 2022 RRC

Hi Brian,

Thanks for this additional feedback. Would it resolve your concern if we changed “made in alignment with” to either of these:

- “made in accordance with”
- “made in compliance with”

We are amenable to either option or open to reviewing other language you might suggest.

Regards,
Virginia

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From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Friday, September 9, 2022 10:00 AM
To: Niehaus, Virginia <virginia.niehaus@dhhs.nc.gov>
Cc: Vail, Nathan T <Nathan.Vail@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10A NCAC 41A .0107 Request for Changes - September 2022 RRC

Virginia,

Thanks for your response. I have a follow up, and I will copy/paste from the change request document, with my follow up in bold below:

In (b), line 21, what do you mean by “Reports shall be made in alignment with...”? Are you requiring something other than compliance with the reporting requirements in the US DHHS document you incorporate by reference?

This language is intended to require reports that align with the requirements of the federal HHS document.

I’m sorry, but this does not answer my question. I asked, because the phrase “made in alignment with” is somewhat unusual, and is different from what I’d expect if you were just requiring compliance with the US DHHS document’s requirements. Frankly, to me “alignment” connotes a general but relaxed compliance, which introduces a lack of clarity as to what you’re actually requiring (i.e. when compliance is strictly necessary, when a departure from the document’s requirements may be made, etc). Please clarify what this language means.

Thanks,
Brian

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From: Niehaus, Virginia <virginia.niehaus@dhhs.nc.gov>
Sent: Thursday, September 8, 2022 7:20 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Vail, Nathan T <Nathan.Vail@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10A NCAC 41A .0107 Request for Changes - September 2022 RRC

Hi Brian,

I have attached responses to the request for technical changes and the revised rule. Please let me know if you have any further questions on this rule.

Regards,
Virginia

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From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Friday, September 2, 2022 2:19 PM
To: Niehaus, Virginia <virginia.niehaus@dhhs.nc.gov>
Cc: Vail, Nathan T <Nathan.Vail@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: 10A NCAC 41A .0107 Request for Changes - September 2022 RRC

Hi Virginia,

Yes, I am reviewing the 15A rules and will have change requests out to you early next week.

Have a great Labor Day weekend too!

Brian

Brian Liebman
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From: Niehaus, Virginia <virginia.niehaus@dhhs.nc.gov>
Sent: Friday, September 2, 2022 2:17:18 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Vail, Nathan T <Nathan.Vail@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10A NCAC 41A .0107 Request for Changes - September 2022 RRC

Hi Brian,

Thank you for your feedback on this rule. We will review the request for changes and respond by September 9.

Do you anticipate requesting changes on the rules submitted in 15A NCAC 18A .1300 and, if so, when should we expect to receive that request? I want to ensure I hold time with SMEs as appropriate to review and respond.

I hope you have a nice holiday weekend!

Thanks,
Virginia

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From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Friday, September 2, 2022 12:07 PM

To: Niehaus, Virginia <virginia.niehaus@dhhs.nc.gov>

Cc: Vail, Nathan T <Nathan.Vail@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: 10A NCAC 41A .0107 Request for Changes - September 2022 RRC

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Commission for Public Health for the September 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, September 15, 2022, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rule to me via email, no later than 5 p.m. on Friday, September 9, 2022.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

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